

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Marcos LUNA-Herrera,

Defendant

Magistrate Docket No.

COMPLAINT FOR VIOLATION OF:

Title 8, U.S.C., Section 1326  
Deported Alien Found in the  
United States

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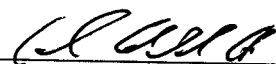
08 MJ 0548

9/18

The undersigned complainant, being duly sworn, states:


On or about **February 23, 2008** within the Southern District of California, defendant, **Marcos LUNA-Herrera**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

  
SIGNATURE OF COMPLAINANT

Ismael Canto  
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **25th** DAY OF **FEBRUARY** **2008**.

  
Nita L. Stormes

UNITED STATES MAGISTRATE JUDGE

**CONTINUATION OF COMPLAINT:****Marcos LUNA-Herrera****PROBABLE CAUSE STATEMENT**

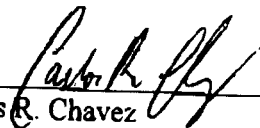
I declare under the penalty of perjury that the following statement is true and correct:

On February 23, 2008, at approximately 7:20 a.m., Border Patrol Agent M. Beltran was performing line watch duties near an area known as the "Tree Farm". This area is approximately two miles west of the San Ysidro, California Port of Entry and is approximately one mile north of the United States/Mexico International Boundary Fence. The "Tree Farm" is an area notoriously used by illegal aliens to further their illegal entry into the United States.

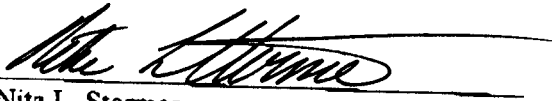
While patrolling the area, Agent Beltran observed an individual, who was later identified as the defendant **Marcos LUNA-Herrera**, lying in the brush. The defendant appeared to be sweating and concealing himself in the brush. Agent Beltran identified himself as a United States Border Patrol Agent and questioned the defendant as to his country of citizenship and nationality. The defendant freely admitted that he was a citizen and national of Mexico and that he possessed no immigration documentation permitting him to enter or remain in the United States legally. Agent Beltran placed the defendant under arrest and had him transported to the Imperial Beach Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **August 15, 2007** through **Nogales, Arizona**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

Executed on February 24, 2008 at 9:00 a.m.

  
Carlos R. Chavez  
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 1 page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on **February 23, 2008**, in violation of Title 8, United States Code, Section 1326.

  
Nita L. Stormes  
United States Magistrate Judge

2-24-08 @ 11:40AM  
Date/Time